



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[EPA-R01-OAR-2017-0439; FRL-9970-60-Region 1]

Notification of Partial Voluntary Withdrawal of Delegation of Authority; Connecticut; National Emission Standards for Hazardous Air Pollutants for Asbestos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of partial withdrawal of delegation of asbestos program.

SUMMARY: This document notifies affected sources and other interested parties that the Connecticut Department of Energy and Environmental Protection (CT DEEP) has voluntarily and partially withdrawn from the delegation of authority to implement and enforce the federal asbestos program provisions at 40 CFR part 61, subpart M. The withdrawal action only applies to sources that are not subject to CT DEEP's title V operating permit program, or that are subject to the title V operating permit program but have not yet received a title V operating permit from CT DEEP. CT DEEP will continue to implement and enforce 40 CFR part 61, subpart M for all sources that have already obtained a title V operating permit, or that obtain such a permit after the effective date of this action.

DATES: This delegation withdrawal is effective on **[Insert 30 days from date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2017-0439. You can inspect copies of the delegation agreement and all correspondence regarding CT DEEP's voluntary and partial withdrawal from delegation of the asbestos program at our Region 1 office during normal business hours. All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index,

some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Eric Wortman, Air Permits, Toxics and Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square (OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1624, fax number (617) 918-0624, e-mail wortman.eric@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. Organization of this document. The following outline is provided to aid in locating information in this preamble.

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I. Background and Purpose.

EPA first promulgated standards to regulate asbestos emissions on April 6, 1973 (38 FR 8820). These standards have since been amended several times and are codified in 40 CFR part 61, subpart M, “National Emission Standard for Hazardous Air Pollutants for Asbestos” (Asbestos NESHAP).

Prior to the 1990 Clean Air Act (CAA) Amendments, section 112(d) of the CAA allowed states to develop and submit to the Administrator a procedure for implementing and enforcing NESHAPs. The 1990 Amendments to the Act revised section 112 extensively, removed delegation provisions from 112(d)(1), and added section 112(l), which now provides the mechanism for delegating section 112 standards to state, local, and tribal agencies. Section 112(l) of the CAA authorizes the Administrator to delegate to each state, when appropriate, the authority to implement and enforce NESHAPs for stationary sources located in such state. The federal regulations governing EPA’s delegation of authority for section 112 federal rules as promulgated without changes are located at 40 CFR part 63, subpart E. *See* 58 FR 62262 (November 26, 1993), as amended by 65 FR 55810 (September 14, 2000). Upon approval by EPA, the state agency is authorized to implement and enforce the federal rule. Under these regulations, a state air pollution control agency may voluntarily withdraw from an approved delegation using the procedures outlined in 40 CFR 63.96(b)(7).

In general, delegations are implemented through agreements between the EPA regional offices and state or local air pollution control agencies. In a letter dated May 11, 1988, CT DEEP requested full delegation of the Asbestos NESHAP regulations. In a letter dated February 27, 1990, the EPA granted delegation of full administrative and enforcement authority for the Asbestos NESHAP to CT DEEP. On April 23, 1999, the EPA approved CT DEEP’s mechanism for receiving delegation of Section 112 standards through the State’s title V operating permit

program. EPA also reconfirmed previously delegated standards for sources that obtained title V operating permits. *See* 64 FR 19922 (April 23, 1999).

On February 7, 2017, pursuant to the provisions at 40 CFR 63.96(b)(7), CT DEEP notified EPA of its intent to voluntarily and partially withdraw from delegation of the Asbestos NESHAP. Subsequently, CT DEEP provided electronic notice to the public and affected sources of the partial delegation withdrawal on June 20, 2017. Notification was also published in the Hartford Courant on June 27, 2017, and CT DEEP accepted written comments through 5 p.m. on July 31, 2017. In the notification, CT DEEP affirmed it will continue to assure compliance with all applicable CAA Section 112 requirements under an issued title V operating permit. CT DEEP received three written comments from the public and regulated community during the public comment period. After reviewing the comments received, CT DEEP sent a letter to the EPA on August 18, 2017 indicating CT DEEP completed the public comment procedures required by §63.96(b)(7). The letter also requested that EPA proceed with a *Federal Register* notice concerning CT DEEP's voluntary, partial withdrawal of delegation for the Asbestos NESHAP. Copies of the correspondence letters between CT DEEP and the EPA regarding this action, the public notice issued by CT DEEP, and the public comments received by CT DEEP are included in the docket for this action.

II. Where should affected sources send notifications required by the Asbestos NESHAP?

Among other things, the Asbestos NESHAP at 40 CFR 61.145(b) requires all owners or operators of a demolition or renovation (demo/reno) activity that is subject to the Asbestos NESHAP to notify the EPA Administrator in writing before certain renovation and/or demolition activities occur and within specified time frames. Since the State of Connecticut was fully delegated the Asbestos NESHAP pursuant to Section 112(d) of the CAA prior to the 1990

amendments, the EPA determined that the State of Connecticut's regulations governing demo/reno activities at the time of delegation were adequate for the purposes of effectively implementing and enforcing the Asbestos NESHAP. This included the requirement that the owners or operators of a demo/reno activity notify in writing the designated state agency in advance of commencing the demo/reno activity. Because the EPA viewed this as a duplicative notification effort in relation to the state and federal requirements, the EPA determined that, with certain exceptions, notification to the designated state agency satisfied the federal notification requirement. On October 2, 1997 (62 FR 51654), the EPA published a notification in the *Federal Register* outlining the notification procedures for sources subject to the Asbestos NESHAP. The notification no longer required the regulated community in Connecticut to provide written notice of demo/reno activities to the EPA, with certain exceptions, as long as such notices were delivered to the designated state agency.

As a result of CT DEEP's partial, voluntary withdrawal from delegation of the Asbestos NESHAP, owners or operators of a demo/reno activity subject to the rule must submit the required notifications to the EPA, unless the owner or operator has a title V operating permit from CT DEEP. This notification requirement to EPA includes owners or operators of title V sources prior to receiving a title V operating permit from CT DEEP, as well as sources not subject to the title V operating permit program. Therefore, after **Insert 30 days from date of publication in the Federal Register**, such owners or operators of a demo/reno activity in Connecticut subject to the Asbestos NESHAP must submit Asbestos NESHAP notifications required under Section 61.145(b) to the following address: Asbestos Demo/Reno Notifications, U.S. EPA Region 1, 5 Post Office Square, Mail Code: OES05-4, Boston, MA 02109-3912. The EPA believes the effective date of this notification provides sufficient time for affected sources

that are not subject to the title V operating permit program, or are subject to the program but have not obtained a title V operating permit, to notify the EPA of future demo/reno activity in accordance with the Asbestos NESHAP. As noted throughout this document, the requirement to notify the EPA does not apply to sources that have obtained a title V operating permit under CT DEEP's title V operating permit program, already, or that obtain a title V operating permit in the future. Any source that has received a title V operating permit from CT DEEP will continue to submit demo/reno notifications to the State of Connecticut.

III. Do I still need to comply with the State of Connecticut regulations?

Nothing in this notification or CT DEEP's voluntary, partial withdrawal changes any source's obligation to comply with state or local laws. All sources subject to such laws must still comply with the state and local regulations. The Connecticut Department of Public Health implements an asbestos program under the Regulations of Connecticut State Agencies. Sources that are subject to the Asbestos NESHAP must also comply with the Connecticut Department of Public Health's asbestos program regulations. This includes potentially duplicative notification requirements for owners or operators of demo/reno activity subject to the Asbestos NESHAP, as well as the Connecticut Department of Public Health's asbestos program. Owners or operators of affected sources should continue to work with their state or local agencies to ensure any applicable requirements are being met. More information on the Connecticut Department of Public Health asbestos program can be accessed online at www.ct.gov/dph/asbestos.

IV. EPA Action

Based on CT DEEP's voluntary and partial withdrawal relating to implementation and enforcement of the Asbestos NESHAP, the EPA is issuing this notification. As noted above, the CT DEEP will retain its delegation to implement and enforce the Asbestos NESHAP for sources

that have obtained a title V operating permit from CT DEEP, or for sources that receive a title V operating permit in the future (once the permit is issued). CT DEEP will continue to assure compliance with all applicable CAA Section 112 requirements for all sources that have title V operating permits or obtain title V operating permits after the date of this action. The delegation withdrawal is effective on **[Insert 30 days from date of publication in the Federal Register]**.

List of Subjects in 40 CFR Part 61

Environmental protection, Air pollution control, Asbestos, Hazardous substances, Reporting and recordkeeping requirements.

AUTHORITY: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: October 25, 2017.

Deborah A. Szaro
Acting Regional Administrator
EPA-New England

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